

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

00 JUN -1 P.

U.S. DISTRICT COURT  
N.D. OF ALABAMA

BANK OF ALABAMA,

Plaintiff,

vs.

CIVIL ACTION NO. 00-RRA-0297-S

KEMP ENTERPRISES, INC., J. MICHAEL

KEMP, SR., FIRST UNION NATIONAL

BANK, and SOUTHERN CULVERT, L.C.,

Defendants.

**ENTERED***ctz*

JUN 2 2000

MEMORANDUM OPINION

Bank of Alabama has filed a complaint in interpleader. The pleadings show, inter alia, the following. This action arose out of a check written by Jenson Civil Construction on its First Union National Bank account. Kemp Enterprises and Southern Culvert were joint payees. The amount of the check was \$30,959.96. Kemp Enterprises deposited the check in its Bank of Alabama account. Bank of Alabama in turn presented it to First Union for payment. After it was discovered that Southern Culvert's endorsement had been forged, purportedly by Kemp, First Union demanded that Bank of Alabama repay the \$30,959.96. Bank of Alabama then froze the \$25,766.94 in Kemp Enterprises' account, and later deposited that sum with the Clerk of Court.

Bank of Alabama, First Union National Bank, and Southern Culvert, L.C. have submitted a "Joint Stipulation of Dismissal and Settlement and Motion for Default Judgment against Kemp Enterprises, Inc., and J. Michael Kemp." According to the said agreement, the \$25,766.94 Bank of Alabama deposited with the Clerk is to be awarded, along with interest earned after its deposit with the Clerk, to First Union National Bank.

The joint stipulation further provides that Bank of Alabama shall pay First Union National Bank an additional \$2,596.51. As to J. Michael Kemp, Sr. and Kemp Enterprises, Inc., the record shows that the Clerk, on the motion of the plaintiff, entered defaults against them for their failure to respond to the complaint. The Kemp defendants, not having responded to the complaint, of course have not contested any of the allegations set out in the pleadings.

The motion to approve the joint stipulation of dismissal and settlement,<sup>1</sup> and the motion for the entry of default judgments against the Kemp defendants, are due to be granted. A final judgment, as well as an order for disbursal of the deposited funds, will be entered in accordance with this memorandum opinion.

DONE this 1st day of June, 2000.



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Edwin L. Nelson,  
United States District Judge

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<sup>1</sup> Technically, this action should not be *dismissed* as to these parties because of certain orders the court will enter, including an award of the payment of the money deposited with the Clerk.